

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6575

BILL NUMBER: SB 238

NOTE PREPARED: Feb 25, 2013

BILL AMENDED: Feb 18, 2013

SUBJECT: Charges For Consumer Loans And Credit Sales.

FIRST AUTHOR: Sen. Holdman

FIRST SPONSOR: Rep. McMillin

BILL STATUS: As Passed Senate

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes the following changes for purposes of the statutes that prescribe the maximum credit service charge for a consumer credit sale (other than a sale involving a revolving charge account) and the maximum loan finance charge for a supervised loan: (1) Increases the applicable amounts financed that are subject to the graduated service charge or loan finance charge percentages. (2) Increases the service charge or loan finance charge percentage that applies if the graduated percentages do not apply from 21% to 25%. The bill increases from 21% to 25% the permitted loan finance charge for consumer loans other than supervised loans.

The bill provides that for supervised loans and consumer loans other than supervised loans:

(A) the permitted minimum loan finance charge may be imposed only if the lender does not assess a loan origination fee.

(B) the lender may contract for and receive a loan origination fee of not more than:

- (1) 2% of the loan amount (or line of credit, for a revolving loan), in the case of a loan secured by an interest in land; or
- (2) \$50, in the case of a loan not secured by an interest in land.

(C) in the case of a loan not secured by an interest in land, if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender, the following apply:

- (1) If the loan is paid in full by the new loan within three months after the date of the prior loan, the lender may not charge a loan origination fee on the new loan (or on the increased credit line, for a

revolving loan).

(2) The lender may not assess more than two loan origination fees in any 12-month period.

Effective Date: July 1, 2013.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) The increase in maximum allowable charges and fees could lead to an increase in taxable income of certain corporations that are transacting the business of a financial institution in Indiana. This could potentially increase the financial institution tax (FIT) deposited in state General Fund. The amount of this possible effect is indeterminable.

(Revised) **Background:** Indiana Uniform Consumer Credit Code (UCCC), IC 24-4.5, regulates the 'credit service charge' and 'loan finance charge' that a creditor can charge for a consumer credit sale or a consumer loan, respectively. 'Credit service charge' means the sum of: (1) all charges payable directly or indirectly by the buyer and imposed directly or indirectly by the seller as an incident to the extension of credit, and (2) charges incurred for investigating the collateral or credit-worthiness of the buyer. "Loan finance charge" means the sum of: (a) all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, and (b) charges incurred for investigating the collateral or credit-worthiness of the debtor.

These limitations on the amount of the credit service charge and loan finance charge apply to all creditors making consumer credit sales and consumer loans in Indiana (unless a creditor is otherwise exempt from the UCCC). This bill will increase the maximum allowable credit service charges and finance charges on consumer credit sales and consumer loans issued by such creditors. Since market conditions and competition are partly responsible for determining these credit charges, this bill will not necessarily lead to increased borrowing cost to the consumers.

(Revised) **Financial Institution Tax:** The FIT is assessed at a rate of 8.5% of apportioned adjusted gross income of certain corporations that are transacting the business of a financial institution in Indiana. It applies to any business which is primarily engaged in the business of extending credit, engaged in leasing that is the economic equivalent of extending credit, or credit card operations. Insurance companies, international banking facilities, federally chartered credit unions, and S corporations are exempt. Local units of government are guaranteed distributions of FIT up to a certain amount, and the remaining revenue collected is deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Department of Financial Institutions.

Local Agencies Affected:

Information Sources:

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